



JUL 21 2011

MEMORANDUM TO: SETH HARRIS
Deputy Secretary

FROM: *Daniel R. Petrole*
DANIEL R. PETROLE
Acting Inspector General

SUBJECT: Investigative Report -- Alleged Improper Procurement
Activities in VETS

I have attached the OIG's investigative report regarding allegations of improper procurement activities in VETS. The report describes a pattern of conduct by Assistant Secretary Jefferson, and consequently by other senior VETS officials, which reflects a consistent disregard of federal procurement rules and regulations, federal ethics principles, and the proper stewardship of appropriated dollars.

The OIG reviewed procurement actions related to three individuals, Stewart Liff, Ron Kaufman, and Mark Tribus, and found that Assistant Secretary Jefferson's insistence upon retaining the services of these individuals led to the circumvention of rules and regulations related to open competition, "advisory and assistance" contracts, and the acceptance of gratuitous services. The OIG found that Department employees were often placed in untenable positions by Assistant Secretary Jefferson's actions, and felt pressured and/or intimidated by him, or other senior VETS officials acting at his direction, to ensure that existing VETS contractors hired Liff and Kaufman.

In Liff's case, this pattern of conduct resulted in payments of approximately \$700,000 to secure Liff's services for a period of 16 months. These services could have been secured at a much lower cost and should have been secured through open competition. In fact, the contractor who initially hired Liff as a subcontractor told VETS that the costs for Liff's services were not a good value for the government, and were more than twice as much as his company had ever charged any client, for any service.

In Kaufman's case, he and his wife traveled from Singapore to three cities in the United States to provide "customer service" training. However, these training services were provided to the Department without proper approval, resulting in a violation of the prohibition against the acceptance of voluntary personal services by the agency. Notably, Mr. Kaufman has not been paid for the training he provided.

In Tribus' case, this pattern of conduct led to the circumvention of procurement and ethics rules, to enable Tribus to conduct a "leadership" training session for Department staff.

Assistant Secretary Jefferson's insistence upon retaining the services of these individuals resulted in procurement violations by officials in both OASAM and VETS, including violations of:

- The Competition in Contracting Act (41 U.S.C. § 253) and the Federal Acquisition Regulations, Part 6, which require, with certain limited exceptions, that executive agencies shall promote and provide for full and open competition in soliciting offers and awarding Government contracts, and that work performed by a contractor be restricted to the "scope" of the contract;
- Federal Acquisition Regulations, Part 37, which requires proper approval for the procurement of advisory and assistance services.
- Federal Acquisition Regulations, Part 1.6, which prohibits unauthorized commitments (for the training services provided by Kaufman);
- 31 U.S.C. § 1342, which prohibits the government from accepting voluntary services from an individual absent a valid gratuitous services agreement.

Further, the actions of Assistant Secretary Jefferson, and other senior VETS officials, violated or appear to have violated various ethics-related provisions, including:

- 5 C.F.R. § 2635.702 (Standards of Ethical Conduct for Federal Employees), which prohibits the use of one's Government position or authority to induce a benefit for the private gain of a friend, relative, or other person;
- Executive Order 12731 (October 17, 1990), which requires Federal employees to "act impartially and not give preferential treatment to any private organization or individual";
- Office of Government Ethics Memorandum 07 x 11 (August 1, 2007), which relates to the placement of individuals with federal contractors.

It is also difficult to reconcile the findings of this report with the fact that Assistant Secretary Jefferson, and other senior VETS officials, were provided with relevant ethics and related training and guidance on multiple occasions. In July 2009, Assistant Secretary Jefferson signed the "Ethics Pledge" required for all Presidential appointees, which includes a "fair hiring" provision, and he also

received a new entrant ethics briefing from the Office of the Solicitor in January 2010. We also found that other agency employees raised relevant concerns about these procurements directly with Assistant Secretary Jefferson, to no avail. Although Assistant Secretary Jefferson told the OIG that he instructed his staff to procure the services of these individuals "legally and ethically," other credible statements provided to the OIG cast serious doubt upon the sincerity of Assistant Secretary Jefferson's assertion.

Separately, the report finds that Assistant Secretary Jefferson may have improperly endorsed the products or services of private individuals, including Mr. Kaufman.

The OIG report primarily addresses the allegations which were raised concerning Assistant Secretary Jefferson and Deputy Assistant Secretary McWilliam, and did not specifically address the actions of OASAM or VETS procurement officials.

As indicated in the report, we have been informed that the Department has recently taken steps to restrict the procurement authority exercised by VETS officials. We are recommending that the Department review the three specific procurement actions described in the investigative report to determine what, if any, further actions should be taken. We are also recommending that the Department's Designated Agency Ethics Official review the actions of Assistant Secretary Jefferson and other senior VETS officials to determine what actions, if any, should be taken.

Please inform the OIG, within 30 days, as to any actions which the Department plans to take with respect to the investigative findings contained in our report.

Finally, please note that while this investigation was initiated as a result of a complaint received by the OIG from a former VETS employee, we have also received inquiries regarding this matter from several Congressional Committees. These Committees have requested a copy of our final report, and we plan to honor these requests and provide these Committees with copies of the report. We would also ask that requests from individuals or parties outside the agency for access to the attached report be referred to the OIG's Disclosure Officer, Kim Pacheco, at pacheco.kimberly@oig.dol.gov.

Attachment